

## **REVOCAION BY DISSOLUTION OF MARRIAGE.**

### **Subdivision 1. Revocation upon dissolution.**

Except as provided by the express terms of a governing instrument, a dissolution of marriage revokes any revocable:

- (a) disposition or appointment of property in a governing instrument made by a divorced individual to or for the benefit of the divorced individual's former spouse or a relative of the divorced individual's former spouse<sup>1</sup>;
- (b) provision in a governing instrument conferring a general or nongeneral power of appointment on a former spouse or on a relative of an individual's former spouse; and
- (c) nomination in a governing instrument, nominating an individual's former spouse or a relative of the individual's former spouse to serve in any fiduciary or representative capacity, including as a personal representative, executor, trustee, conservator, agent, or guardian.

### **Subd. 2. Effect of revocation.<sup>2</sup>**

Provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse died immediately before the dissolution of marriage.

### **Subd. 3. Revival if dissolution nullified.**

Provisions of a governing instrument revoked solely by this section are revived by the divorced individual's remarriage to the former spouse or by a nullification of the dissolution of marriage.

### **Subd. 4. No revocation for other change of circumstances.**

No change of circumstances other than as described in this section and in § 45a-447<sup>3</sup> effects a revocation.

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<sup>1</sup> We should consider amending C.G.S. § 45a-257(c) (Marriage of testator terminated after execution of will. Provisions of will re former spouse revoked) to also include relatives.

<sup>2</sup> Question for Family Law Section: Some state statutes have a provision severing an interest of a divorced individual and former spouse as joint tenants with the right of survivorship into interests as tenants in common. Under Connecticut law, would the divorce decree settle the ownership interests in any such property such that this additional provision should not be necessary?

<sup>3</sup> Reference to CT slayer statute.

**Subd. 5. Protection of payors and other third parties.**

(a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a dissolution of marriage or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the dissolution of marriage or remarriage. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) Written notice of the dissolution of marriage or remarriage under paragraph (a) must be delivered to the payor's or other third party's home office or principal address by registered or certified mail, return receipt requested. Upon receipt of written notice of the dissolution of marriage or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the probate district of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court shall discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

**Subd. 6. Protection of Bona Fide Purchasers; Personal liability of recipient.**

A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice, or who received from a former spouse, relative of a former spouse or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. However, except as preempted by federal law, a former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

**Subd. 7. Definitions.** For purposes of this section, the following terms shall have the following meaning and effect:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) “Dissolution of marriage” means any divorce or annulment, or any dissolution or declaration of invalidity of a marriage that would exclude the spouse as a surviving spouse. A decree of separation<sup>4</sup> that does not terminate the status of spouse is not a dissolution or divorce for the purposes of this section.

(c) “Divorced individual” means an individual whose marriage has been dissolved as defined in subparagraph (b) hereof.

(d) [“Former spouse” means a person whose marriage to the divorced individual has been the subject of a dissolution of marriage.]<sup>5</sup>

(e) “Governing instrument” includes, but is not limited to, (i) a testamentary instrument, trust agreement,<sup>6</sup> insurance or annuity policy, savings, retirement, transfer-on-death, pension, deferred compensation, death benefit, stock bonus or profit-sharing plan, account, arrangement, system or trust, agreement with a bank, brokerage firm or investment company, registration of securities in beneficiary form, or other similar benefit plan or a dispositive, appointive or nominative instrument of any similar type executed by the divorced individual before the dissolution of his or her marriage to his or her former spouse, provided, however, it shall not include a Will, (ii) a court order, or (iii) a contract relating to the division of property made between the divorced individuals before or after the dissolution of marriage.

(f) “Payor” means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

(g) “Relative of the divorced individual’s former spouse”<sup>7</sup> means an individual who is related to the divorced individual’s former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.

(h) “Revocable,” with respect to a disposition, appointment, provision, or nomination, means one under which the divorced individual, at the time of the divorce or annulment, was empowered, by law or under the governing instrument, to cancel the designation in favor of his or her former spouse or former spouse’s relative, whether or not the divorced individual was then empowered to designate himself or herself in place of his or

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<sup>4</sup> Question for Family Law Section: Does this term include a legal separation?

<sup>5</sup> Question for Family Law Section: Is this definition necessary? We think the term “former spouse” should include a situation where there has only been a legal separation.

<sup>6</sup> Question for Estate & Probate Section: Do we wish for a governing instrument to include a “trust agreement?”

<sup>7</sup> Question for Family Law Section: Is there a preferred definition of relative?

her former spouse's relative and whether or not the divorced individual then had the capacity to exercise the power.

**Subd. 8. Effective Date.**

This section shall apply to any dissolution of marriage effective on or after January 1, 2021, whether or not the parties were married at the time such governing instrument was executed.